

SENATE BILL No. 422

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-5-1.5.

Synopsis: Employment of unauthorized aliens. Prohibits contractors that have public contracts for services to employ unauthorized aliens. Requires contractors to: (1) comply with requirements regarding verification of employment under federal law; and (2) make verification forms available for inspection by the commissioner of labor. Provides that a contractor that fails to comply with requirements regarding employment verification is subject to a civil penalty of at least \$110 but not more than \$1,100 for each employee with respect to whom the violation occurred. Provides that a public contract for services is void if the contractor providing the services hires or employs unauthorized aliens unless the state or political subdivision determines that voiding the contract would be detrimental to the public interest or public property.

Effective: July 1, 2007.

Simpson

January 16, 2007, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 422

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]:

4 **Chapter 1.5. Employment of Unauthorized Aliens**

5 **Sec. 1.** As used in this chapter, "commissioner" refers to the
6 commissioner of labor or the commissioner's authorized agent.

7 **Sec. 2.** As used in this chapter, "contractor" means a person
8 that has a public contract for services with a state agency or
9 political subdivision.

10 **Sec. 3. (a)** As used in this chapter, "person" means an
11 individual, a corporation, a limited liability company, a
12 partnership, or another legal entity.

13 **(b)** The term does not include a nonprofit organization that is
14 exempt from taxation under Section 501(c)(3) of the Internal
15 Revenue Code.

16 **Sec. 4.** As used in this chapter, "political subdivision" has the
17 meaning set forth in 36-1-2-13.

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1 **Sec. 5.** As used in this chapter, "public contract for services"
 2 means any type of agreement, regardless of what the agreement is
 3 called, between a state agency or a political subdivision and a
 4 contractor for the procurement of services.

5 **Sec. 6.** As used in this chapter, "state agency" has the meaning
 6 set forth in IC 4-6-3-1.

7 **Sec. 7.** As used in this chapter, "unauthorized alien" has the
 8 meaning set forth in 8 U.S.C. 1324a(h).

9 **Sec. 8.** (a) Except as provided in subsection (b), a contractor that
 10 enters into a public contract for services shall not employ an
 11 unauthorized alien.

12 (b) A contractor shall comply with the requirements regarding
 13 verification under 8 U.S.C. 1324a of the United States Immigration
 14 and Nationality Act.

15 **Sec. 9.** A contractor described in section 8(a) of this chapter
 16 shall:

17 (1) retain a verification form of each employee as required
 18 under 8 U.S.C. 1324a; and

19 (2) make the verification forms described in subdivision (1)
 20 available for inspection by the commissioner upon request.

21 **Sec. 10.** (a) A contractor that fails to retain or make available
 22 for inspection a verification form of each employee as required
 23 under 8 U.S.C. 1324a is subject to a civil penalty that is:

24 (1) at least one hundred ten dollars (\$110); and

25 (2) not more than one thousand one hundred dollars (\$1,100);
 26 for each employee with respect to whom the violation occurred.

27 (b) The commissioner may enforce a civil penalty imposed
 28 under this section by filing an appropriate action in a court of
 29 jurisdiction.

30 **Sec. 11.** (a) Except as provided in subsection (b), if a contractor
 31 hires or employs an unauthorized alien, any public contract for
 32 services with that contractor is void.

33 (b) If a contractor hires or employs an unauthorized alien but
 34 the state or political subdivision (whichever the contractor has a
 35 public contract for services with) determines that voiding the
 36 public contract for services under subsection (a) would be
 37 detrimental to the public interest or public property, the state or
 38 political subdivision may allow the public contract for services to
 39 remain in effect until the state or political subdivision hires a new
 40 contractor.

41 **Sec. 12.** A provision of this chapter that violates federal law is
 42 void.

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